

1 court hereby

2 ADOPTS AND ACCEPTS the report and recommendation of the
3 United States Magistrate Judge (#58). The court notes that in
4 his opposition to the motion for summary judgment, plaintiff
5 argues that he has been unable to procure affidavits necessary to
6 support his opposition. He therefore asserts that the
7 defendants' motion should be denied pursuant to Fed. R. Civ. P.
8 56(f). However, plaintiff does not explain how such affidavits
9 would create a genuine issue of material fact. Accordingly,
10 plaintiff's Rule 56(f) argument amounts to a conclusory assertion
11 insufficient to overcome the grant of summary judgment to
12 defendants. Therefore, defendants' motion for summary judgment
13 (#36) is **GRANTED**. The clerk of the court shall enter judgment
14 accordingly.

15 **IT IS SO ORDERED.**

16 DATED: This 15th day of September, 2010.

17 
18 UNITED STATES DISTRICT JUDGE